

## AGRICULTURAL DEVELOPMENT AUTHORITY[25]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 175.2(2) and 175.6(14), the Agricultural Development Authority hereby gives Notice of Intended Action to amend Chapter 1, “General,” Chapter 6, “Beginning Farmer Tax Credit Program,” and Chapter 11, “Waiver or Variance of Rules,” Iowa Administrative Code.

The proposed amendments update rules on the structure of the Agricultural Development Authority by reflecting the changes made in 2011 Iowa Acts, Senate File 429. The Authority was previously independent and is now established within the Department of Agriculture and Land Stewardship. The board of the Agricultural Development Authority would have the ability to waive rules.

The proposed amendments eliminate the requirement that the beginning farmer annually submit the IRS 1040 Schedule F form for receipt of the beginning farmer tax credit. This change is being made in order to provide for a more efficient use of staff time.

Any interested person may make written suggestions or comments on the proposed amendments on or before December 6, 2011. Written comments should be addressed to Margaret Thomson, Iowa Department of Agriculture and Land Stewardship, Wallace State Office Building, 502 E. 9th Street, Des Moines, Iowa 50319. Comments may be submitted by fax to (515)281-6236 or E-mail to [Margaret.Thomson@IowaAgriculture.gov](mailto:Margaret.Thomson@IowaAgriculture.gov).

The proposed amendments are subject to the Authority’s general waiver provision.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code chapter 175 as amended by 2011 Iowa Acts, Senate File 429.

The following amendments are proposed.

ITEM 1. Amend rule 25—1.1(175) as follows:

**25—1.1(175) Description of agricultural development authority organization.** The agricultural development authority is established within the department of agriculture and land stewardship and consists of nine members. The treasurer of the state or the treasurer’s designee and the state secretary of agriculture or the secretary’s designee are ex officio nonvoting members. Members are appointed for staggered six-year terms. A chairperson, vice-chairperson and treasurer are elected by the membership. Authority staff consists of an executive director and additional staff as approved by the agricultural development authority.

This rule is intended to implement Iowa Code section 17A.3 and Iowa Code chapter 175 as amended by 2011 Iowa Acts, Senate File 429.

ITEM 2. Amend rule 25—1.5(175) as follows:

**25—1.5(175) Waiver.** The ~~executive director~~ board of the authority may in the ~~director’s~~ board’s discretion retroactively or prospectively waive or vary particular provisions of these rules as necessary to conform to changes in federal or state law or regulations; to further the legislative purposes of programs of the authority; to bestow additional benefits or privileges on persons eligible to participate in the authority’s programs; or to avoid inequitable, harsh or unforeseen results from the application of these rules; provided that the waiver shall be for good cause to avoid irreparable harm or injury to

citizens of this state, shall not be unduly prejudicial to any person and shall not be in conflict with the Act.

This rule is intended to implement Iowa Code section 17A.3 and Iowa Code chapter 175.

ITEM 3. Amend rule 25—6.5(175) as follows:

**25—6.5(175) Procedures following tax credit approval.**

~~6.5(1)~~ Either the beginning farmer or the taxpayer shall immediately notify the authority of any material changes in the agricultural assets transfer agreement. The authority shall act upon these changes pursuant to ~~2006 Iowa Acts, Senate File 2268, section 2~~ Iowa Code section 175.37. Material changes cannot result in an increase in the original tax credit amount approved. Death of a party to the lease, divorce, or sale of the property will be considered eligible material changes. Sale of the property will be considered only if the original lease terms remain in effect and the asset purchaser is determined to be eligible for the program.

~~6.5(2)~~ The beginning farmer shall annually by April 15 submit to the authority a copy of the Schedule F for the previous year. This schedule should document that the beginning farmer paid cash rent, received income and incurred expenses associated with operating the agricultural asset under the terms of the lease agreement.

ITEM 4. Amend **25—Chapter 6**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 175 ~~as amended by 2006 Iowa Acts, Senate File 2268.~~

ITEM 5. Amend rule 25—11.3(17A,175) as follows:

**25—11.3(17A,175) Applicability of chapter.** ~~The authority may grant a~~ A waiver from a rule may be granted only if the authority has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. ~~The authority may~~ waiver shall not waive be granted for requirements created or duties imposed by statute.

ITEM 6. Amend rule 25—11.4(17A,175), introductory paragraph, as follows:

**25—11.4(17A,175) Criteria for waiver or variance.** In response to a petition completed pursuant to rule 25—11.6(17A,175), the board of the authority may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the ~~authority~~ board finds, based on clear and convincing evidence, all of the following:

ITEM 7. Amend subrule 11.10(1) as follows:

**11.10(1)** ~~Authority Board discretion.~~ The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the ~~authority~~ board, based upon consideration of all relevant factors. Each petition for a waiver shall be evaluated by the ~~authority~~ board based on the unique, individual circumstances set out in the petition.